July 3, 2013

MEMO ENDORSED

Amended complaint due on or before November 2, 2013
Conference adjourned from July 12 to November 19, 2013 at 11:00am

SO ORDERED
USDJ
7-10-13

By Hand

The Honorable P. Kevin Castel
United States District Court
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007

Re: *Sullivan* v. *Barclays PLC et al.*, No. 13-CV-2811

Dear Judge Castel:

This joint letter is submitted in advance of the Initial Pretrial Conference currently scheduled for July 12, 2013, at 12:00 p.m., pursuant to the Court's May 1, 2013 Order. The parties write to (i) inform the Court of Plaintiff's intention to file an amended complaint, (ii) report on the nature and status of the case, (iii) jointly propose an agreed schedule for Plaintiff to file his amended complaint and for Defendants to respond and/or move against it, and (iv) seek adjournment of the Initial Pretrial Conference and the due dates of related submissions.

As explained in further detail below, subject to the Court's approval, the parties have agreed that Plaintiff will file an amended complaint in approximately four (4) months on November 2, 2013, that Defendants will have 60 days to respond to any such complaint and that, if motions to dismiss are filed, Plaintiff will have 60 days to oppose and Defendants will have 45 days to reply. Accordingly, the parties respectfully request that the Initial Pretrial Conference be adjourned to a date subsequent to Plaintiff's filing of the amended complaint so as to permit the Court and the parties to address the claims and allegations set forth at that time. For similar reasons, and in light of the particular complexities of this case, the parties further request that the due dates of the submissions required by the Court's May 1, 2013 Order, including a jointly proposed Case Management Plan, similarly be adjourned to a later date.

Plaintiff's and Defendants' respective statements regarding the status of the case and in support of the relief requested are set forth in the following separate sections.

Plaintiff's Statement

On February 12, 2013 Plaintiff Stephen Sullivan ("Plaintiff") filed a 73-page, 104 paragraph complaint in the Northern District of Illinois. Docket No. 1. On April 25, 2013, the action was transferred to this Court. Docket Nos. 46-47. Plaintiff asserts claims for violations of the Sherman Act and unjust enrichment on behalf of a class of U.S. investors who purchased or sold a NYSE Euronext LIFFE ("NYSE LIFFE") Euro Interbank Offered Rate futures contract ("Euribor futures"). The claims are asserted against Defendants Barclays PLC, Barclays Bank PLC, Barclays Capital Inc., UBS AG and The Royal Bank of Scotland plc and fifty unnamed John Does (collectively, "Defendants"). Defendants are among the financial institutions responsible for setting Euribor, the commodity underlying Euribor futures contracts.

Plaintiff alleges Defendants conspired to fix and manipulate Euribor by falsely reporting, among other unlawful acts, their daily submissions to the Euribor benchmark. Through this unlawful conduct, Defendants sought to financially benefit their Euribor-based derivatives positions (including Euribor futures contracts) or those of their co-conspirators.

Since filing the complaint, Plaintiff believes he has obtained significant additional information with which to amend the complaint. Further, Plaintiff also believes that, when the progress of the Department of Justice investigations permit it, he is entitled to receive substantial information from the amnesty applicant who is a defendant in this case and has made a public announcement as follows:

> Barclays has announced today that it has reached settlements in relation to investigations with the Financial Services Authority ("FSA"), the US Commodity Futures Trading Commission ("CFTC") and the United States Department of Justice Fraud Section ("DOJ") (together the "Authorities") into submissions made by Barclays and other panel members to the bodies that set various interbank offered rates.
>
> This resolution is part of an industry-wide investigation into the setting of interbank offered rates across a range of currencies. In connection with these resolutions, Barclays has agreed to pay total penalties of £290 million (sterling equivalent) by entry into a Settlement Agreement with the FSA, a Non-Prosecution Agreement with the DOJ and the entry of a Settlement Order Agreement with the CFTC. In addition, Barclays has been granted conditional leniency from the Antitrust Division of the

> Department of Justice in connection with potential US antitrust law violations with respect to financial instruments that reference EURIBOR.

Barclays PLC and Barclays Bank PLC, Report of Foreign Issuer (Form 6-K) (June 27, 2012).

In these circumstances, Plaintiff believes that it is in the interest of judicial economy to postpone the filing of an amended complaint until November 2, 2013, which is approximately four (4) months from the date of this letter. In the event that Plaintiff has not received the ACPERA cooperation by that time, Plaintiff respectfully submits that it may be in the interests of judicial economy that there be a further extension. But Plaintiff cannot prejudge this and may, depending on the degree of cooperation already obtained, be able to go forward with their amendment on November 2, 2013 even if the ACPERA cooperation is not complete.

Defendants' Statement

Defendants consent to Plaintiff's request for approximately a four (4) month extension of time to file his amended complaint subject to the Court's approval of a schedule for the Defendants to respond to the amended complaint of 60 days and, if motions to dismiss are filed, 45 days for Plaintiff to file an opposition and 45 days for Defendants to file a reply.

That one of the Defendants in this action is an amnesty applicant does not automatically demonstrate that Plaintiff (who does not adequately describe in the current complaint the nature and timing of his trading) is a proper plaintiff with a timely claim, or that he can state an antitrust or unjust enrichment claim against any of the Defendants, let alone all of them. If Defendants were to respond to Plaintiff's current complaint (which was filed before Judge Buchwald's decision in the U.S. Dollar LIBOR case), they would move to dismiss it pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Among other deficiencies, Plaintiff's complaint fails to state a claim under Section 1 of the Sherman Act for multiple reasons, including that it fails to allege facts sufficient to demonstrate that Plaintiff has standing to bring the claims, has brought his claims in a timely manner and can state a plausible conspiracy among these Defendants. Moreover, Plaintiff has failed adequately to allege the necessary elements of an unjust enrichment claim under New York law.

This case is one of dozens of civil cases currently pending in this District that have been filed in the wake of published reports of ongoing multi-jurisdictional, multi-agency investigations of the practices of various banks in making submissions to certain interest rate benchmarks, including U.S. Dollar LIBOR, Yen LIBOR, Euroyen

Tibor and Euribor,[1] and some initial settlements arising from those investigations. These cases, which have been collected in this District to facilitate coordination, include *In Re LIBOR-Based Financial Instruments Antitrust Litigation*, 11 MD 226 (NRB), the consolidated multidistrict litigation concerning U.S. Dollar LIBOR pending before the Honorable Naomi Reice Buchwald. On March 29, 2013, Judge Buchwald issued a comprehensive decision granting in large measure motions to dismiss and setting out a substantive framework for analyzing benchmark interest rate-related litigation. Judge Buchwald has not entered judgment in the MDL case but has a number of post-decision motions currently before her. Except for the activity with respect to the cases subject to her decision, Judge Buchwald has stayed all of the other cases before her.[2] It is expected that one or more groups of plaintiffs will file notices of appeal to the Second Circuit after Judge Buchwald enters a judgment based on her decision.

In another case involving two other benchmarks, pending before the Honorable George B. Daniels, some of the same counsel who are presently advancing Plaintiff's claims here have asserted antitrust claims on behalf of other plaintiffs against Defendants (and others) based on the Yen LIBOR and Euroyen TIBOR benchmarks. That case, *Laydon* v. *Mizuho Bank et al.*, 12 CV 3419 (GBD), is currently subject to motions to dismiss, which under the current schedule will be fully briefed on September 27, 2013. Oral argument is scheduled for November 12, 2013. As with the MDL, no discovery has taken place in the *Laydon* case.

* * *

For the foregoing reasons, the parties ask that the Court enter an order granting the above-requested relief.

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[1] Euribor, the benchmark interest rate at issue in this action, is published by the European Banking Federation and is defined as "the rate at which Euro interbank term deposits are being offered within the [Economic and Monetary Zone of the European Union] by one prime bank to another at 11:00 a.m. Brussels time." (Compl. ¶ 37.)

[2] Previously, when the plaintiffs in the MDL cases applied to Judge Buchwald for leave to pursue discovery prior to motions to dismiss, the U.S. Department of Justice advised the Court that it was conducting ongoing investigations covering the subject matter of the USD LIBOR cases. The Justice Department requested that if any discovery was going to proceed, it wanted to have an opportunity to advise the Court about its position on the timing and scope of discovery. Soon thereafter, Judge Buchwald denied plaintiffs' request for pre-motion discovery.

Respectfully submitted,

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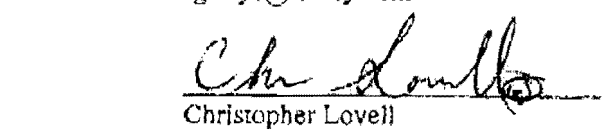

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